

AMENDED IN ASSEMBLY MAY 13, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1858

Introduced by Assembly Member Perea

February 19, 2014

An act to amend Section 9503 of, *and to add Section 9503.5 to*, the Commercial Code, relating to secured transactions.

LEGISLATIVE COUNSEL'S DIGEST

AB 1858, as amended, Perea. Commercial law: secured transactions.

The Uniform Commercial Code - Secured Transactions governs security interests in collateral, including personal property and fixtures, as well as certain sales of accounts, contract rights, and chattel paper. That code, among other things, specifies requirements and procedures regarding perfecting a security interest, including the filing of a financing statement with the Secretary of State. Existing law specifies that a financing statement sufficiently provides the name of a debtor, where the debtor is an individual, if it provides the individual name of the debtor or the surname and first personal name of the debtor.

This bill would revise the manner in which a financing statement sufficiently provides the name of the debtor, where that debtor is an individual, to provide that, where the Department of Motor Vehicles has issued a driver's license that has not expired or identification card that has not expired to the individual, the statement sufficiently provides the name of the debtor only if the statement provides the name of the individual indicated on the license or card and, if the individual has not been issued a driver's license or identification card, the statement sufficiently provides the name of the debtor if it provides the individual name of the debtor or the surname and first personal name of the debtor.

Existing provisions of the Unruh Civil Rights Act, with certain exceptions, prohibit various forms of arbitrary discrimination by business establishments.

This bill would make it a violation of the Unruh Civil Rights Act for a secured party or proposed secured party to decline to provide credit to a debtor or proposed debtor, or offer to make the terms and conditions of such credit less favorable to the debtor or proposed debtor, because the debtor or proposed debtor does not hold or present a valid driver's license or identification card issued by the Department of Motor Vehicles, as provided.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9503 of the Commercial Code, as
2 amended by Section 16 of Chapter 531 of the Statutes of 2013, is
3 amended to read:

4 9503. (a) A financing statement sufficiently provides the name
5 of the debtor only if it does so in accordance with the following
6 rules:

7 (1) Except as otherwise provided in paragraph (3), if the debtor
8 is a registered organization or the collateral is held in a trust that
9 is a registered organization, only if the financing statement provides
10 the name that is stated to be the registered organization's name on
11 the public organic record most recently filed with or issued or
12 enacted by the registered organization's jurisdiction of organization
13 which purports to state, amend, or restate the registered
14 organization's name.

15 (2) Subject to subdivision (f), if the collateral is being
16 administered by the personal representative of a decedent, only if
17 the financing statement provides, as the name of the debtor, the
18 name of the decedent and, in a separate part of the financing
19 statement, indicates that the collateral is being administered by a
20 personal representative.

21 (3) If the collateral is held in a trust that is not a registered
22 organization, only if the financing statement satisfies both of the
23 following conditions:

24 (A) Provides, as the name of the debtor, either of the following:

1 (i) If the organic record of the trust specifies a name for the
2 trust, the name specified.

3 (ii) If the organic record of the trust does not specify a name
4 for the trust, the name of the settlor or testator.

5 (B) In a separate part of the financing statement, the following
6 information is provided, as applicable:

7 (i) If the name is provided in accordance with clause (i) of
8 subparagraph (A), the financing statement indicates that the
9 collateral is held in a trust.

10 (ii) If the name is provided in accordance with clause (ii) of
11 subparagraph (A), the financing statement provides additional
12 information sufficient to distinguish the trust from other trusts
13 having one or more of the same settlors or the same testator and
14 indicates that the collateral is held in a trust, unless the additional
15 information so indicates.

16 (4) Subject to subdivision (g), if the debtor is an individual to
17 whom the Department of Motor Vehicles has issued a driver's
18 license that has not expired or an identification card that has not
19 expired, only if the financing statement provides the name of the
20 individual indicated on that driver's license or identification card.

21 (5) If debtor is an individual to whom paragraph (4) does not
22 apply, only if the financing statement provides the individual name
23 of the debtor or the surname and first personal name of the debtor.

24 (6) In other cases, according to the following rules:

25 (A) If the debtor has a name, only if the financing statement
26 provides the organizational name of the debtor.

27 (B) If the debtor does not have a name, only if the financing
28 statement provides the names of the partners, members, associates,
29 or other persons comprising the debtor, in a manner that each name
30 provided would be sufficient if the person named were the debtor.

31 (b) A financing statement that provides the name of the debtor
32 in accordance with subdivision (a) is not rendered ineffective by
33 the absence of either of the following:

34 (1) A trade name or other name of the debtor.

35 (2) Unless required under subparagraph (B) of paragraph (6) of
36 subdivision (a), names of partners, members, associates, or other
37 persons comprising the debtor.

38 (c) A financing statement that provides only the debtor's trade
39 name does not sufficiently provide the name of the debtor.

1 (d) Failure to indicate the representative capacity of a secured
2 party or representative of a secured party does not affect the
3 sufficiency of a financing statement.

4 (e) A financing statement may provide the name of more than
5 one debtor and the name of more than one secured party.

6 (f) The name of the decedent indicated on the order appointing
7 the personal representative of the decedent issued by the court
8 having jurisdiction over the collateral is sufficient as the “name
9 of the decedent” under paragraph (2) of subdivision (a).

10 (g) If the Department of Motor Vehicles has issued to an
11 individual more than one driver’s licenses or identification cards
12 of a kind described in paragraph (4) of subdivision (a), paragraph
13 (4) of subdivision (a) refers to the most recently issued license or
14 card.

15 (h) For purposes of this section:

16 (1) “Driver’s license” includes a driver’s license issued pursuant
17 to subdivision (a) of Section 12801.9 of the Vehicle Code.

18 (2) “Name of the settlor or testator” means either of the
19 following:

20 (A) If the settlor is a registered organization, the name that is
21 stated to be the settlor’s name on the public organic record most
22 recently filed with or issued or enacted by the settlor’s jurisdiction
23 of organization which purports to state, amend, or restate the
24 settlor’s name.

25 (B) In other cases, the name of the settlor or testator indicated
26 in the trust’s organic record.

27 *SEC. 2. Section 9503.5 is added to the Commercial Code, to*
28 *read:*

29 *9503.5. Section 51 of the Civil Code shall be construed to*
30 *prohibit a secured party or proposed secured party from declining*
31 *to provide credit to a debtor or proposed debtor, or offer to make*
32 *the terms and conditions of such credit less favorable to the debtor*
33 *or proposed debtor, because the debtor or proposed debtor does*
34 *not hold or present a valid driver’s license or identification card*
35 *issued by the Department of Motor Vehicles. All elements of a*
36 *claim under Section 51 of the Civil Code and any affirmative*
37 *defenses available under Section 51 of the Civil Code apply to a*
38 *claim under this section.*

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